



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

January 28, 2003

Mr. Gary W. Smith  
City Clerk  
City of Baytown  
P.O. Box 424  
Baytown, Texas 77522-0424

OR2003-0579

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 175606.

The City of Baytown (the "city") received a request for the "[n]ames and addresses of current residents in the 77521 zip code." You claim that the some of requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that some of the submitted information may be made confidential under section 552.101 of the Government Code.<sup>1</sup> Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception protects information that another statute makes confidential. Section 182.052 of the Utilities Code provides in part:

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record if the customer requests that the government-operated utility keep the information confidential.

Util. Code § 182.052(a).

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions including section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

“Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number. *See id.* § 182.051(4). Furthermore, section 182.052 is applicable only to an individual and does not protect information relating to a corporation, partnership, or other business entity. *See* Open Records Decision No. 625 at 4-5 (1994) (construing statutory predecessor). You indicate the submitted information is contained in water utility records. None of the exceptions to confidentiality listed in section 182.054 appears to be applicable. Therefore, the city must withhold a utility customer’s address from the responsive information under section 182.052 if that customer requested confidentiality prior to the city’s receipt of this request for information. *See id.* at 5- 8. To the extent the addresses are not confidential under section 182.052, we now address your claims under section 552.117.

You argue that the submitted information contains information subject to section 552.117 of the Government Code. Section 552.117(1) excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Section 552.117(2) excepts from public disclosure a peace officer’s home address, home telephone number, social security number, and information indicating whether the peace officer has family members. We note, however, that the protections of section 552.117 only apply to information that the governmental body holds in its capacity as an employer. *See* Gov’t Code § 552.117 (providing that employees of governmental entities may protect certain personal information in the hands of their employer); *see also* Gov’t Code § 552.024 (establishing election process for Gov’t Code § 552.117). In this instance, the submitted information is held by the city as a utility provider, not an employer. Consequently, we find that the none of the officer’s personal information may be withheld under section 552.117(1) or section 552.117(2).

In summary, you must withhold the submitted addresses of utility customers who requested that this information remain confidential prior to the date the city received the instant request for information pursuant to section 552.101 in conjunction with section 182.052 of the Utilities Code. You must release the remaining responsive information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

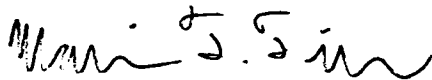
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Maverick F. Fisher". The signature is fluid and cursive, with the first name "Maverick" being more prominent.

Maverick F. Fisher  
Assistant Attorney General  
Open Records Division

MFF/seg

**Ref: ID# 175606**

**Enc: Submitted documents**

**c: Mr. James Aubey  
St. Marks United Methodist Church  
1703 Oklahoma  
Baytown, Texas 77520  
(w/o enclosures)**